

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

CAROL THOMAS,

Plaintiff,

v.

CITY COLLEGE OF SAN FRANCISCO, et  
al.,

Defendants.

Case No. 15-cv-05504-HSG

**ORDER STRIKING DOCKET NO. 42**

On May 16, 2016, Plaintiff Carol Thomas (“Plaintiff”) filed a motion for leave to file a second amended complaint in this matter. Dkt. No. 33. Plaintiff attached to that motion a copy of her proposed second amended complaint. Dkt. No. 33-1. Because Defendant City College of San Francisco (“Defendant”) did not oppose the motion and because the Court did not find that there was any improper purpose, the Court granted Plaintiff’s motion on July 14, 2016. Dkt. No. 35.

On July 27, 2016, Defendant filed a motion to dismiss the second amended complaint. Dkt. No. 37. In response, the Court vacated the pending case management conference. Dkt. No. 39. On August 3, 2016, Plaintiff filed an opposition to the motion to dismiss. Dkt. No. 41.

On August 9, 2016, Plaintiff filed a second amended complaint as a separate entry on the docket. Dkt. No. 42. This complaint does not match the proposed complaint that the Court gave Plaintiff leave to file in its previous order. *Compare* Dkt. No. 42 *with* Dkt. No. 33-1. Plaintiff essentially admits that the two complaints do not match: she captions the latter document as a “Formal Amended Second Complaint.” Dkt. No. 42 at 1.


Plaintiff may not file a different complaint than the one she submitted and the Court approved without obtaining further approval. *See* Fed. R. Civ. P. 15(a). Permitting Plaintiff to file a different second amended complaint would prejudice Defendant because it has already filed a

1 motion to dismiss based on the proposed complaint that Plaintiff filed in May. It would also waste  
2 judicial and private resources to require the motion to dismiss to be re-briefed.

3 Accordingly, the Court **STRIKES** the second amended complaint filed as Docket No. 42  
4 from the docket. The operative complaint is the proposed amended complaint that Plaintiff filed  
5 as Docket No. 33-1. The clerk is directed to e-file the proposed amended complaint as the second  
6 amended complaint. The Court will not permit any further amendment of the complaint pending  
7 resolution of Defendant's motion to dismiss.

8 **IT IS SO ORDERED.**

9 Dated: August 15, 2016

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12 HAYWOOD S. GILLIAM, JR.  
13 United States District Judge  
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United States District Court  
Northern District of California

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**CERTIFICATE OF SERVICE**


I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on August 15, 2016, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Carol Thomas  
854 E Pacific Ave.  
San Francisco, CA 94133

Dated: August 15, 2016

Susan Y. Soong  
Clerk, United States District Court

By:   
Nikki D. Riley, Deputy Clerk to the  
Honorable HAYWOOD S. GILLIAM, JR.